



PATENT
Client-Matter No.: 66661-028
(P-IS 4588)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of) Confirmation No: 7007
Ideker et al.)
) Group Art Unit: 1631
)
Serial No.: 09/823,850) Examiner: M. Zeman
)
Filed: March 30, 2001)
)
For: METHODS FOR DETERMINING)
THE TRUE SIGNAL OF AN)
ANALYTE)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION PURSUANT TO 37 C.F.R. §1.132

Sir:

We, Trey E. Ideker, Vesteinn Thorsson and Andrew F. Siegel, hereby declare as follows:

1. We are the Trey E. Ideker, Vesteinn Thorsson and Andrew F. Siegel who are named as the co-inventors on the above-identified patent application.

2. We are the Trey E. Ideker, Vesteinn Thorsson and Andrew F. Siegel who are named as co-authors with Dr. Leroy E. Hood, on the publication entitled "Testing for Differentially-Expressed Genes by Maximum-Likelihood Analysis of Microarray Data" published as Ideker et al., *J. Computational Bio.* 7:805-17 (2000).

3. The invention claimed in the subject application was conceived and reduced to practice by us jointly while we were working in Dr. Hood's laboratory.

4. The impetus for solving the problem of intensity variation in fluorescent array measurements, which is the subject matter of the Ideker et al., *supra*, publication, was supplied by Dr. Hood. Laboratory support and professional encouragement also was supplied by Dr. Hood. Conception of the error model for reducing observed variability and reduction to practice occurred in Dr. Hood's laboratory by us jointly. Therefore,

Inventors: Ideker et al.

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Page 2

while recognized as a co-author of the Ideker et al. publication, Dr. Hood did not contribute to aspects of the subject matter claimed in the above-identified application. Therefore, Dr. Hood was not named as a co-inventor of the claimed invention.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: _____

By: _____

Trey E. Ideker

Date: Nov 18, 2003

By: Vesteinn Thorsson

Vesteinn Thorsson

Date: _____

By: _____

Andrew F. Siegel

Inventors: Ideker et al.

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Date: _____

By: _____

Trey E. Ideker

Date: _____

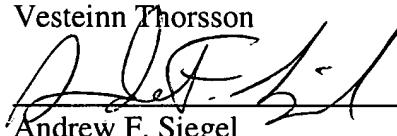
By: _____

Vesteinn Thorsson

Date: 12/2/03

By: _____

Andrew F. Siegel

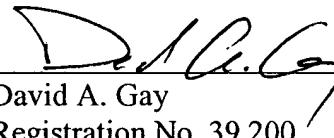


Inventor(s): Ideker et al.
Serial No.: 09/823,850
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Page 2

- Please charge my Deposit Account No. 502624 the amount of \$55.00 which covers the fee for a one -month extension of time. A duplicate copy of this sheet is enclosed.
- The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment to Deposit Account No. 502624. A duplicate copy of this sheet is enclosed.
- The Commissioner is hereby authorized to charge to Deposit Account No. 502624 any fees under 37 CFR 1.17 which may be required under 37 CFR 1.136(a)(3) for an extension of time in any concurrent or future reply requiring a petition for extension of time. A duplicate copy of this sheet is enclosed.

Dated: May 4, 2004

Respectfully submitted,



David A. Gay
Registration No. 39,200
McDERMOTT, WILL & EMERY
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San Diego, California 92122
Telephone No. 858-535-9001

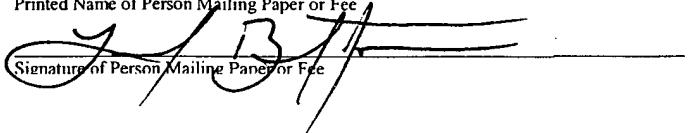
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AMENDMENT TRANSMITTAL LETTER			CLIENT-MATTER NO.:		
			66661-028		
SERIAL NO:	FILING DATE:	EXAMINER:	GROUP ART UNIT: 1631		
109/823,850	March 30, 2001	M. Zeman	CONFIRMATION NO.: 7007		
INVENTION: METHODS FOR DETERMINING THE TRUE SIGNAL OF AN ANALYTE					

U.S. PATENT & TRADEMARK OFFICE
MAY 8 4 2004
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING BY "EXPRESS MAIL"
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I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO ADDRESSEE" SERVICE UNDER 37 CFR 1.10 ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VIRGINIA 22313-1450.

Leand Bantado
Printed Name of Person Mailing Paper or Fee

Signature of Person Mailing Paper or Fee

Transmitted herewith is the Response, with Exhibits A and B as attachments thereto, to the Office Action mailed January 29, 2004, in the above-identified application.

- Small Entity status of this application has been established under 37 CFR 1.27.
- Petition for Extension of Time is enclosed (in duplicate).
- No additional claims fee is required.
- An additional claims fee is required and has been calculated as shown below:

CLAIMS AS AMENDED

	NUMBER AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR		RATE		FEE	
					SMALL ENTITY	OTHER ENTITY	SMALL ENTITY	OTHER ENTITY
TOTAL CLAIMS	85	=	85	x	\$ 9.00	\$ 18.00	=	\$
INDEPENDENT CLAIMS	7	=	7	x	\$ 43.00	\$ 86.00	=	\$
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIMS: <u>YES</u>					\$ 145.00	\$ 290.00		\$
NO					TOTAL ADDITIONAL FEE		\$ 0.00	\$

* If the "HIGHEST NUMBER PREVIOUSLY PAID FOR" is less than 20, write "20" in this space.

** If the "HIGHEST NUMBER PREVIOUSLY PAID FOR" is less than 3, write "3" in this space.

*** If the difference between the "NUMBER AFTER AMENDMENT" and the "HIGHEST NUMBER PREVIOUSLY PAID FOR" is less than 0, write "0" in the space.



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